

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION
IN ADMIRALTY**

In the Matter of the Complaint of Theresa
Tran and Chicago AquaLeisure, LLC,
individually and as owners and/or owner pro
hac vice of the vessel LA AQUAVIDA,
Official Number GFNCY003E20 &
DOCUMENTATION #1155272, for
Exoneration from or Limitation of Liability

No. 1:22-CV-6478

PARTIES JOINT STATUS REPORT

NOW COME Limitation Plaintiffs Theresa Tran and Chicago AquaLeisure, LLC (hereinafter, individually, a “Limitation Plaintiff”, and collectively, the “Limitation Plaintiffs”), as, respectively, alleged owner and alleged owner *pro hac vice* of the 2003 Four Winns 348 Vista, 37’ LOA, (Hull Identification Number: GFNCY00CE203, Illinois Registration: IL3097KJ, hereinafter, the “Limitation Vessel”), and Claimants Lana Batochir, Marija Velkova and Jacob Houle (collectively Claimants), each by their respective counsel, and hereby submit this Joint Status Report in compliance with this Court’s Order dated February 14, 2023:

1. Nature and Scope of the Case

This Limitation of Liability action arises out a boating incident that occurred on or about August 13, 2022, on Lake Michigan in the area commonly known as the “Playpen” wherein Claimants allege the Limitation Vessel collided with an anchored boat and its raft attached thereto, which Claimants were situated on or about: Claimants allege that the occurrence and their personal injuries were a direct and proximate result of the negligent acts or omissions of various entities and persons, including Limitation Plaintiffs. Limitation Plaintiffs deny any negligence.

On November 14, 2022, Claimant Marija Velkova filed a lawsuit against various entities and persons, including Limitation Plaintiffs, in the Circuit Court of Cook County. *See Marija Velkova v. Joseph Neverauskas*, et al., No. 2022-L-010139 (Cook Cty. Cir. Ct.). Claimant Lana Batochir also filed suit against various entities and persons, including Limitation Plaintiffs, in the Circuit Court of Cook County. *See Lana Batochir v. Joseph Neverauskas*, et al., No. 2022-L-011324 (Cook Cty. Cir. Ct.). And Claimants allege in their Complaints filed in Cook County Circuit Court that the occurrence and their personal injuries were a direct and proximate result of the negligent acts or omissions of the various entities and persons, including Limitation Plaintiffs.

On November 18, 2022, the Limitation Plaintiffs filed the instant Limitation of Liability action (hereinafter, the “Limitation Complaint”). *See* ECF No. 1. Pursuant to the federal Shipowners Limitation of Liability Act (46 U.S.C. §30501 et seq.), the Limitation Plaintiffs seek exoneration from or limitation of their liability for any injuries, losses, or damages occasioned or incurred during the Voyage or arising from the incident on or about August 13, 2022. The Limitation Plaintiffs deny any negligence but claim that the fair market value of the Vessel at the time of the occurrence was \$71,637.00. Limitation Plaintiffs assert that the full extent of their exposure under the Limitation Act is the Vessel value of \$71,637.00.

Shortly after Limitation Plaintiffs filed this action, this Court entered an Order staying and restraining all other actions until the hearing and determination of this proceeding, and admonishing all persons or entities asserting any claim with respect to that which Limitation Plaintiffs’ Complaint seeks exoneration from, or limitation of, liability, to file their respective claims with this Court on or before January 25, 2023.

On January 25, 2023, in accordance with this Court’s Order, Claimants Lana Batochir and Marija Velkova filed their Claims and Answers. *See* ECF Nos. 16, 17, 19, 20. On February 14,

2023, the Court granted leave to Jacob Houle to file his claim after the deadline and on February 14, 2023, Jacob Houle filed his Claim and Answer. *See* ECF No. 27, 28, 29.

Claimants deny that Limitation Plaintiffs are entitled to exoneration from or limitation of their liability pursuant to the Limitation of Liability Act. Claimants reserve their rights to pursue all available claims against Limitation Plaintiffs in the fora of Claimants' choosing for resolution of any and all issues beyond the exclusive jurisdiction of this Admiralty Court, and to have such claims and related damages tried to a jury, including their causes of action filed in the Circuit Court of Cook County, Illinois County Department Law Division, as provided for by the Savings to Suitors Clause in 28 U.S.C. § 1333(1).

2. The Progress of Discovery

Limitation Plaintiffs issued written discovery to Claimants on February 20, 2023. Claimants object to proceeding with discovery, and Claimants intend to file a Joint Motion to lift this Court's prior injunction against prosecution of their state court actions and to stay this Limitation action. Limitation Plaintiffs will oppose the Motion and will file a written response in opposition.

3. Status of Briefing on Any Unresolved Motions

There are no pending unresolved Motions. However, as indicated above, Claimants intend to file a Joint Motion to lift this Court's prior injunction against prosecution of their state court actions and to stay this Limitation action in accordance with United States Supreme Court precedent and Seventh Circuit precedent. *See generally Roen Salvage Co. v. Sarter*, 17 F.4th 761 (7th Cir. 2021); *In re Illinois Marine Towing*, 498 F.3d 645 (7th Cir. 2007); *Lewis & Clark Marine, Inc.*, 531 U.S. 438 (2001). Limitation Plaintiffs will oppose the Joint Motion and deny that United

States Supreme Court and Seventh Circuit precedent supports lifting the Stay, including the authority cited herein.

4. Settlement Efforts

The Limitation Plaintiffs allege that they offered the deposit representing the value of the vessel to settle the claims of Claimants.

Claimants disagree that Limitation Plaintiffs have made any formal settlement offer to any of the Claimants. And Claimants have not made any formal demands to Limitation Plaintiffs.

5. Agreed Proposed Schedule for the Next 45-60 Days

The parties hereby request that this Court permit the following briefing schedule to be entered on Claimants Joint Motion:

- (1) Claimants have seven days hereafter, until March 8, 2023 to file a Joint Motion to lift the injunction against the prosecution of the pending state court actions and to stay this proceeding,
- (2) Limitation Plaintiffs request that they be provided 28 days, until April 5, 2023, after the filing of the Joint Motion to file their Response. Claimants request that Limitation Plaintiffs be granted 14 days, until March 22, 2023, to file their response in the interest of resolving the stay expeditiously.
- (3) Claimants to file their reply within fourteen days, until April 19, 2023.
- (4) The Parties suggest that they forego submitting any further status report(s) until after the intended motion has been resolved.

6. Agreed Action the Court Can Take Without a Hearing

None requested at this time.

7. Necessity of Telephonic Hearing

The Parties do not believe a telephonic hearing is necessary at this time.

Dated: March 1, 2023.

Respectfully Submitted,

/s/ Randall W. Slade

One of the Attorneys for the Limitation
Plaintiffs Chicago AquaLeisure, LLC and
Theresa Tran

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